

REMARKS

Applicant respectfully requests that the foregoing amendments be made prior to examination of the present application. Applicants makes this amendment and response because the Office refused to consider the amendment filed on October 25, 2004.

Claims 31, 32, 33, and 34 are requested to be cancelled. These claims were previously withdrawn from examination.

Claim 17 is currently being amended.

Claims 38, 39, 40, and 41 are being added.

This amendment adds, changes and deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

After amending the claims as set forth above, claims 1-30 and 35-41 are now pending in this application.

Applicants have amended the claims herein to more succinctly claim their invention and to obtain a speedier allowance of this application into an issued patent. Applicants reserve their right to file additional claims in a divisional, continuation, or continuation-in-part application directed to other subject matter.

Request for Interview

Applicants request an interview with the Examiner in this action before issuance of a first action to advance the prosecution of the present application. Applicants invite the Examiner to contact the undersigned by telephone after his review of this amendment to discuss this case on the merits.

Previous Interview with Examiner

The undersigned, on behalf of applicant, thanks the examiner for the telephone interview of October 22, 2004. No agreements were made with respect to the scope of the claims in that interview, however, the examiner indicated he would discuss this case further with the supervisory examiner after receiving the amendment. The Office did not consider the amendment filed on October 25, 2004. *See Advisory Action* dated December 15, 2004.

Response to 35 U.S.C. § 102(b) Rejection

The Office Action dated August 24, 2004, has rejected claims 1-6, 8-10, 12, 14, and 17-20 under 35 U.S.C. § 102(b) as being anticipated by Crawford et al. (U.S. Patent No. 2,596,010). The Office Action states that Crawford discloses using an isohexane solvent to form an extraction mixture, where the isohexane solvent includes 95% methylpentane and has less than 0.5% of aromatic. (Page 2).

Crawford is an inappropriate 102(b) reference because it fails to disclose the claimed species. For a reference to anticipate a species, the reference must permit a reader to "at once envisage" the claimed compound. *See In re Meyer*, 599 F.2d 1026, 202 USPQ 175 (CCPA 1979) (A reference disclosing "alkaline chlorine or bromine solution" embraces a large number of species that cannot be said to anticipate claims to "alkali metal hypochlorite."); *Akzo N.V. v. International Trade Comm'n*, 808 F.2d 1471, 1 USPQ2d 1241 (Fed. Cir. 1986) (Claims to a process using a 98% solution of sulfuric acid were not anticipated by a reference which disclosed using sulfuric acid solution but which did not disclose using a 98% concentrated sulfuric acid solution); *MPEP* 2131.02 (8th Ed.). Crawford does not permit a reader to do so. Crawford does not describe the claimed species of solvent, and in fact teaches away from the claimed species.

Claim 1 and amended claim 17 each require (among other combinations of subject matter) "no more than about 0.1 wt.% hydrocarbons having less than 6 carbon atoms." Crawford fails to disclose this species of isohexane having such a low amount of low weight hydrocarbons that can be used for oil extraction from seed material. Amended Claim 17 *further requires* the claimed compound to have, among other things, (1) at least 99 wt. %

saturated aliphatic hydrocarbons having 6 carbon atoms, and (2) no more than 3 wt. % dimethylbutanes.

Crawford fails to describe the claimed species of isohexane that is used to extract oil from seed material. For example, Crawford fails to disclose the claimed ranges for the amount of saturated aliphatic hydrocarbons and dimethylbutane. As indicated in the specification, small changes in the amounts of the low weight hydrocarbons and dimethylbutane can drastically effect the flash points (wet/dry bubble point and boiling/dew points) of the isohexane solvent. For these reasons, Crawford cannot anticipate independent claims 1 and 17. Further, Crawford cannot anticipate claims 2-6, 8-10, 12, and 14, which are dependent from claim 1, and claims 18-20 and 38-41, which are dependent from amended claim 17.

Response to 35 U.S.C. § 103(a) Rejection

The Office Action has also rejected claims 7, 11, 13, 15, 16, 21-30, and 35-37 under 35 U.S.C. 103(a) as being unpatentable over Crawford. Applicants have discovered that an isohexane solvent with a significantly reduced amount of hydrocarbons having less than 6 carbon atoms prevents the escape of hydrocarbons in the atmosphere. As addressed in Applicants' specification at paragraph 43, minor variations in the chemical composition of the isohexane solvent can significantly affect the required cooling surface area (e.g., a 2°F difference in wet bubble point temperature decreases the required cooling surface area by about 20%, about a 3°F difference decreases the required surface cooling area by about 37%, and a 4°F difference decreases the required surface cooling areas by about 50%). Applicants account for this drastic affect by claiming in each independent claim an isohexane solvent having "no more than about 0.1 wt.% hydrocarbons having less than 6 carbon atoms."

Crawford actually teaches away from using an isohexane with a low amount of hydrocarbons having less than 6 carbon atoms. In particular, Crawford discloses that the use of isopentane (a C5 hydrocarbon) "can be employed with excellent results." (Col 2, l. 50-Col. 3, l. 1). Accordingly, Crawford cannot render obvious the claimed inventions. Applicants

respectfully request that the Examiner allow all independent claims, and the claims dependent therefrom.

Applicant believes that the present application is now in condition for allowance. Favorable consideration of the application as amended is respectfully requested.

Respectfully submitted,

Date January 24, 2005

FOLEY & LARDNER LLP
Customer Number: 26371
Telephone: (414) 297-5664
Facsimile: (414) 297-4900

By Jason E. Pauls

Jason E. Pauls
Attorney for Applicant
Registration No. 45,651